

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DIANE M. MCLEAR,

Plaintiff,

v.

DECISION AND ORDER
15-CV-970

NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,

Defendant.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On July 21, 2017, Magistrate Judge McCarthy filed a Report and Recommendation (Dkt. No. 14), recommending that the Acting Commissioner's motion for judgment on the pleadings (Dkt. No. 12) be denied, and Plaintiff's motion for similar relief (Dkt. No. 9) be granted. Magistrate Judge McCarthy further recommends that the decision of the Commissioner be vacated and this matter be remanded for further administrative proceedings.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, the Acting Commissioner's motion for judgment on the pleadings is denied, and Plaintiff's motion for similar relief is granted. It is further ORDERED that the decision of the

Commissioner is vacated and this matter is remanded for further administrative proceedings consistent with the Report and Recommendation.

The Clerk of Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: August 30, 2017